

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF VIRGINIA

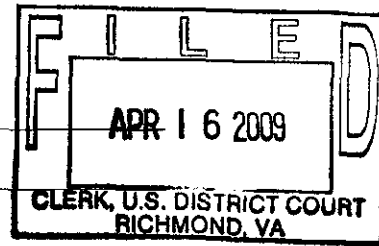
Richmond Division

In re Circuit City Stores, Inc.

Case No. 08-35653-KRH

Adv. Proceeding No.

Debtor(s)



TRANSMITTAL OF RECORD ON APPEAL TO DISTRICT COURT

Pursuant to 28 U.S.C. 158, Notice of Appeal was filed herein on February 12, 2009

The parties included in the Appeal to the District Court:

APPELLANT(S): Port Arthur Holdings, III, Ltd.

ATTORNEY: David H. Cox

1120 20th Street, N.W., South Tower

Washington, DC 20036

APPELLEE (S): Circuit City Stores, Inc.

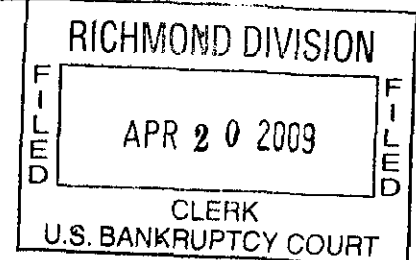
ATTORNEY: Dion W. Hayes, Esq. (Local Counsel) Gregg M. Galardi, Esq

One James Ctr, 901 E. Cary St.

One Rodney Square

Richmond, VA 23219

Wilmington, DE 19899



Brief Description of Judgment/Order Appealed: Findings of Fact and Conclusions of Law from Hearing Held December 22, 2008, on Motions to Compel Payment of Postpetition Rent

Date Judgment/Order Entered: January 26, 2009; Memorandum Opinion Entered: February 12, 2009

1. Filing Fees: A. Notice of Appeal - Filing Fee \$5.00 (X) Paid ( ) Not Paid  
B. Appeal Docket Fee - \$250.00 (X) Paid ( ) Not Paid ( ) Deferred. See attached Request  
2. (X) Notice of Appeal, Order/Judgment, True Copy Teste of Docket Record, and Designation(s) [if any]  
3. ( ) No Designation of Record on Appeal filed (See Certification Below)  
4. ( ) Copies of items designated by Appellant/Appellee have/have not been submitted pursuant to FRBP 8006 and LBR 8006-1.

Date: April 16, 2009

WILLIAM C. REDDEN, Clerk of the Court

By: /s/ Jennifer A. Jafarbay, Deputy Clerk

CERTIFICATION TO APPELATE COURT

It is hereby certified that the designation of record required by Federal Rule of Bankruptcy Procedure 8006 and Local Bankruptcy Rule 8006-1 has not been filed within ten (10) days after the filing of the notice of appeal.

WILLIAM C. REDDEN, Clerk of the Court

By: \_\_\_\_\_, Deputy Clerk

District Clerk - Please complete and return second copy.

DISTRICT COURT CASE NUMBER

3:09CV232

Date

3/16/2009

cc: Attorney for Appellant(s)

Attorney for Appellee(s)

Judge Hudson

[apptans ver. 11/01/03]

This is related to 09-CV-190.

Jennifer Jafarbay

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF VIRGINIA  
Richmond Division

502-12 86 <sup>th</sup> STREET, LLC, et al.,	)	
	)	
Appellants,	)	
	)	
v.	)	No. 3:09-cv-00190-RLW
	)	
CIRCUIT CITY STORES, INC., et al.,	)	
Debtors-in-Possession	)	
	)	
Appellees.	)	

**STIPULATION AND AGREED ORDER STAYING APPEAL  
OF 502-12 86<sup>TH</sup> STREET LLC, COTTONWOOD CORNERS –  
PHASE V, LLC AND WOODLAWN TRUSTEES, INCORPORATED**

WHEREAS, on February 5, 2009, 502-12 86<sup>th</sup> Street LLC, Cottonwood Corners – Phase V, LLC and Woodlawn Trustees, Incorporated (collectively, the “Appellants”), by counsel and pursuant to 28 U.S.C. § 158(a)(1), filed their Notice of Appeal (the “Appeal”) from the Bankruptcy Court’s Findings of Fact and Conclusions of Law From Hearing Held December 22, 2008 On Motions to Compel Payment of Postpetition Rent entered on January 26, 2009 (the “January 26 Order”), pursuant to which the Court denied various motions requesting an Order compelling Circuit City Stores, Inc. and their affiliated debtor-entities (collectively, the “Debtors”) to immediately pay post-petition rent under sections 365(d)(3) and 503(b)(1)(A) of the Bankruptcy Code; and

WHEREAS, on March 30, 2009, the Appeal was docketed with this Court; and

WHEREAS, on February 5, 2009, certain landlords (collectively the “Brighton Commercial Landlords”) filed a Notice of Appeal, as amended, from, and a Motion for Leave to Appeal (the “Motion”), the January 26 Order; and

WHEREAS, the Appellants filed a Motion for Joinder to the Brighton Commercial Landlords' Motion; and

WHEREAS, on January 2, 2009, certain other landlords (collectively, the "Developers Diversified Landlords") filed a Notice of Appeal, as amended, from the Court's decision at the December 22, 2008 hearing to deny various motions requesting an Order compelling the Debtors to immediately pay post-petition rent pursuant to sections 365(d)(3) and 503(b)(1)(A) of the Bankruptcy Code; and

WHEREAS, on February 23, 2009, the Brighton Commercial Landlords and the Debtors filed a Certification to Court of Appeals by All Parties, pursuant to which the parties requested that the Brighton Commercial Landlords' appeal be certified for adjudication by the United States Circuit Court of Appeals for the Fourth Circuit (the "Fourth Circuit"); and

WHEREAS, on March 18, 2009, the United States District Court for the Eastern District of Virginia entered a Stipulation & Agreed Order Extending Briefing Schedule and Request for Certification to Court of Appeals filed by the Debtors and the Developers Diversified Landlords, pursuant to which the parties requested that the Developers Diversified Landlords' appeal be certified to the Fourth Circuit and consolidated with the Brighton Commercial Landlords' appeal (collectively, the "Certified Appeal"); and

WHEREAS, the Appellants and the Debtors hereby stipulate and agree to the relief stated herein, as indicated by their counsels' signatures below.

NOW, THEREFORE, upon the stipulation and consent of the Appellants and the Debtors, and for good cause shown, it is hereby ORDERED that:

1. The Appeal shall be stayed pending the adjudication of the Certified Appeal;

2. The Fourth Circuit's decision on the merits of the Certified Appeal shall be dispositive, to the extent applicable, to the issues raised by the Appellants in connection with the Appeal;
3. In the event that the Certified Appeal is withdrawn or dismissed, the Debtors and the Appellants shall submit an order to this Court vacating the stay of the Appeal and the Debtors and the Appellants shall jointly certify the Appeal to the Fourth Circuit;
4. Upon entry of an order vacating the stay of the Appeal (the "Vacated Stay Order"), the briefing schedule set forth in Rule 8009 of the Federal Rules of Bankruptcy Procedure shall be extended for sixty (60) days from the Vacated Stay Order as the parties seek certification of the Appeal to the Circuit Court of Appeals for the Fourth Circuit; and
5. The Bankruptcy Court shall retain jurisdiction over all matters or disputes concerning this Stipulation and Agreed Order.

Signed: *H* /s/

Entered: April 14, 2005

Title: Henry E. Hudson  
United States District Court for the  
Eastern District of Virginia,  
Richmond Division

WE AGREE TO THIS:

By: /s/ Michael P. Falzone

Michael P. Falzone (VSB #22324)

Sheila deLa Cruz (VSB #65395)

Hirschler Fleischer, PC

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2100 East Cary Street

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Richmond, VA 23218-0500

*Counsel for Appellants, 502-12 86<sup>th</sup> Street LLC  
Cottonwood Corners - Phase V, LLC and  
Woodlawn Trustees, Incorporated*

By: /s/ Douglas M. Foley

Douglas M. Foley (VSB #34364)

Sarah B. Boehm (VSB #45201)

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and

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Skadden, Arps, Slate, Meagher & Flom, LLP

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*Counsel for the Debtors*

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